The Hon'ble Mr.Justice V.M.Jain, Judge.

Whether approved for reporting?[1]

For the appellant: Mr. H.K.Bhardwaj, Advocate.

For the Respondent: Nemo

V. M. Jain, J.(Oral)

This Regular Second Appeal has been filed by Jagat Ram defendant against the judgment and decree dated 24.9.2005 passed by the District Judge, whereby the appeal filed by the plaintiff was allowed, the judgment and decree of the trial court were set aside and the suit of the plaintiff was decreed.

The facts, which are relevant for the decision of the present appeal are that Mohan Lal had filed a suit for permanent injunction against the defendants, with the allegations that the plaintiff is the owner in possession of the suit land and the defendants had no concern with the same. It was alleged that while intending to reconstruct the new abadi on their old dilapidated existing abadi, which was adjoining the suit land, the defendants threatened to interfere and encroach upon some part of the

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[1] Whether reporter of local papers are allowed to see the judgment ?

that the old abadi of the defendant No.1 was in existence since long and the defendants wanted to reconstruct the same since it was in a dilapidated condition. It was alleged that the plaintiff had no concern with the same. It was denied that the defendants had threatened to interfere or to usurup the possession of the land of old khasra Nos. 1187 and 1188.

After hearing both sides and perusing record, the learned trial court dismissed the suit of the plaintiff, holding that the plaintiff had failed to discharge the onus for the grant of ad interim injunction, since according to the plaintiff himself he had lost possession over the disputed portion of the suit land. However, the appeal filed by the plaintiff was allowed by the learned District Judge, the judgment and decree of the trial court were set aside and the suit of the plaintiff was decreed, so far as it related to the interdictory relief (prohibitory relief). Aggrieved against the same, defendant No.1, namely, Jagat Ram filed the present regular second appeal in this court.

After hearing the learned counsel and perusing the record, in my opinion, there is no merit in this appeal and the same is liable to be dismissed. While decreeing the suit of the plaintiff for the grant of prohibitory injunction and restraining the defendants from interfering in the

construction in their own land. The case of the defendants was that they were raising the construction over their own land. In this view of the matter, in case the suit of the plaintiff has been decreed by the learned District Judge and the defendants have been restrained from interfering in the possession of the plaintiff over the suit land, owned and possessed by him, in my opinion, no case for interfering with the judgment of the learned District Judge is made out in the present regular second appeal, especially when the learned District Judge, while deciding the appeal, had considered the entire evidence available on record and had found it as a fact that the plaintiff was entitled to the prohibitory injunction against the defendants. Furthermore, no question of law muchless a substantial question of law arises for determination in this case.

In view of the above, finding no merit in this appeal, the same is hereby dismissed.

CMP No.1157 of 2005

In view of dismissal of the main appeal, this application has become infructuous and is disposed of accordingly.

January 9,2006 (g) **(V.M. Jain), J.**